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Attorney for HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE FOR CITIGROUP
MORTGAGE LOAN TRUST INC., ASSET BACKED PASS-THROUGH CERTIFICATES SERIES 2004-RP1

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	§	CASE NO. 16-57664-PWB
	§	
MURIEL LORRAINE NELSON aka	§	
MURIEL B. NELSON,	§	
Debtor	§	CHAPTER 13
	§	
HSBC BANK USA, NATIONAL	§	
ASSOCIATION AS TRUSTEE FOR	§	
CITIGROUP MORTGAGE LOAN	§	
TRUST INC., ASSET BACKED	§	
PASS-THROUGH CERTIFICATES	§	
SERIES 2004-RP1,	§	
Movant	§	CONTESTED MATTER
	§	
v.	§	
	§	
MURIEL LORRAINE NELSON aka	§	
MURIEL B. NELSON; MARY	§	
IDA TOWNSON, Trustee	§	
Respondents	§	

**MOTION OF HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE FOR
CITIGROUP MORTGAGE LOAN TRUST INC., ASSET BACKED PASS-THROUGH
CERTIFICATES SERIES 2004-RP1 FOR RELIEF FROM STAY OF ACTION
AGAINST DEBTOR PURSUANT TO 11 U.S.C. § 362(a) AND WAIVER OF THIRTY
DAY REQUIREMENT PURSUANT TO § 362(e)**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE FOR
CITIGROUP MORTGAGE LOAN TRUST INC., ASSET BACKED PASS-THROUGH
CERTIFICATES SERIES 2004-RP1, Movant, by and through the undersigned attorney, and

moves the Court as follows:

1. This Motion is brought pursuant to 11 U.S.C. §362(d) in accordance with Rule 4001 of the Bankruptcy Rules.
2. On or about May 02, 2016, MURIEL LORRAINE NELSON aka MURIEL B. NELSON (hereinafter "Debtor") filed a petition for an order of relief under Chapter 13 of the Bankruptcy Code.
3. At the time of filing the Chapter 13 petition, Movant held a Note executed on July 26, 2001, by MURIEL NELSON in the original amount of ONE HUNDRED FORTY-FOUR THOUSAND THREE HUNDRED FIFTY DOLLARS AND ZERO CENTS (\$144,350.00) with interest thereon at the rate of 6.500% per annum, as modified by loan modification dated March 10, 2009. A true and correct copy of the Note is attached hereto as Exhibit "A".
4. The indebtedness is secured by a Security Deed dated July 26, 2001 and executed by MURIEL NELSON on real estate with all improvements known as:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING LAND LOT 37 OF THE 18TH LAND DISTRICT, DEKALB COUNTY, GEORGIA RECORDS, AND BEING LOT 19, CARRIAGE WALK, AS PER PLAT RECORDED IN PLAT BOOK 114, PAGES 7-9, DEKALB COUNTY, GEORGIA RECORDS, WHICH RECORDED PLAT IS INCORPORATED HEREIN BY REFERENCE FOR A MORE COMPLETE DESCRIPTION OF SAID PROPERTY.

MORE COMMONLY KNOWN AS 5615 CARRIAGE WALK WAY, STONE MOUNTAIN, GEORGIA 30087

A true and correct copy of the Security Deed is attached hereto as Exhibit "B".

5. Debtor(s) executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original

mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

6. Debtor failed to maintain current the post-petition payments due under the Note and as of January 12, 2017, Debtor is in arrears for:

3 payment(s) which represents payment(s) for November 01, 2016 through January 01, 2017 totaling \$3,740.76 (\$1,246.92/each)

7. The outstanding indebtedness to Movant is \$124,084.60 principal plus accrued interest, late charges, attorneys fees and costs as provided in the Note and Security Deed.

8. In accordance with the terms of the Note and Security Deed, Movant would allege that it is entitled to reasonable post-petition attorneys fees, including, but not limited to, fees, if any, for the preparation and filing of a proof of claim and fees and costs for the filing of this Motion for Relief from Stay.

9. Debtor has failed to provide adequate protection to Movant which constitutes cause to terminate the automatic stay of 11 U.S.C. §362(e).

10. By reason of the foregoing, Movant requests the Court to terminate the stay so Movant may proceed to foreclose in accordance with its Note and Security Deed.

11. Movant reserves the right to assert an 11 U.S.C. § 362(d)(2) Cause of Action, if appropriate, at the hearing on Movant's Motion for Relief.

WHEREFORE, Movant prays that this Court enter an Order, after notice and hearing, terminating the automatic stay as to Movant and waives right to hearing within thirty (30) days as provided by 11 U.S.C. 362(e); alternatively Movant may be made whole by having all post petition payments, fees and costs brought current. Movant further prays that upon termination of the automatic stay, the pre-petition arrears shall no longer be funded under the Chapter 13 Plan, the post petition payments shall no longer be required & 11 U.S.C. § 1322 (b)(5) shall no longer be applicable, therefore Movant and Trustee shall no longer be subject to the

subsequent notice requirements of Federal Rule of Bankruptcy Procedure 3002.1 with regard to the above-described property and that the Court waive the provision of Rule 4001(a)(3) and that Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay; that Movant be awarded its reasonable post-petition attorneys fees and expenses for this Motion; and, that Movant be granted such other and further relief as is just.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
LEVINE & BLOCK, LLP

BY: /s/ BRANDI R. LESESNE 01/18/2017

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ATTORNEY FOR MOVANT

CERTIFICATE OF SERVICE

I hereby certify that on January 18, 2017, true and correct copy of the foregoing Notice of Hearing and Motion for Relief from Stay as to Debtor was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties on the attached list.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
LEVINE & BLOCK, LLP

/s/ BRANDI R. LESESNE

01/18/2017

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DEBTOR:

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5615 CARRIAGE WALK WAY
STONE MOUNTAIN, GA 30087

TRUSTEE:

MARY IDA TOWNSON
191 PEACHTREE STREET NE
SUITE 2200
ATLANTA, GA 30303-1740

DEBTOR'S ATTORNEY:

SCHUYLER ELLIOTT
2024 BEAVER RUIN RD
NORCROSS, GA 30071

PARTIES IN INTEREST:

None

PARTIES REQUESTING NOTICE:

None